

SERVED: November 22, 2000

NTSB Order No. EA-4865

UNITED STATES OF AMERICA  
**NATIONAL TRANSPORTATION SAFETY BOARD**  
WASHINGTON, D.C.

Issued under delegated authority (49 C.F.R. 800.24)  
on the 22nd day of November, 2000

_____	)	
JANE F. GARVEY,	)	
Administrator,	)	
Federal Aviation Administration,	)	
	)	
Complainant,	)	
	)	Docket SE-15910
v.	)	
	)	
FRANKLIN J. DeBOARD,	)	
	)	
Respondent.	)	
_____	)	

**ORDER DISMISSING APPEAL**

The Administrator has moved to dismiss the appeal filed by the respondent in this proceeding because it was not perfected by the filing of a timely appeal brief, as required by Section 821.48(a) of the Board's Rules of Practice (49 C.F.R. Part 821).<sup>1</sup> We will grant the motion, to which respondent, through counsel, responded by requesting a thirty-day extension to file his appeal brief, which was already more than one month late. However, no reason demonstrating justification for the untimeliness was given

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<sup>1</sup>Section 821.48(a) provides as follows:

§ 821.48(a) **Briefs and oral argument.**

(a) Appeal briefs. Each appeal must be perfected within 50 days after an oral initial decision has been rendered, or 30 days after service of a written initial decision, by filing with the Board and serving on the other party a brief in support of the appeal. Appeals may be dismissed by the Board on its own initiative or on motion of the other party, in cases where a party who has filed a notice of appeal fails to perfect his appeal by filing a timely brief.

for the failure to file respondent's brief by October 5, 2000; that is, within 50 days after service of the law judge's August 16 oral initial decision.<sup>2</sup>

In the absence of good cause to excuse respondent's failure either to perfect his appeal by filing a timely appeal brief or to submit a timely request to extend his time for filing the brief,<sup>3</sup> dismissal of his appeal is required by Board precedent. See Administrator v. Hooper, 6 NTSB 559 (1988).

**ACCORDINGLY, IT IS ORDERED THAT:**

1. The Administrator's motion to dismiss is granted;
2. The respondent's request for an extension of time is denied; and
3. The respondent's appeal is dismissed.

Ronald S. Battocchi  
General Counsel

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<sup>2</sup>The law judge affirmed an order of the Administrator suspending any airman certificate held by respondent, including Commercial Pilot Certificate No. 002049886, for a period of 180 days for his alleged violations of sections 91.119(a) and 91.13(a) of the Federal Aviation Regulations, 14 CFR Part 91.

<sup>3</sup>Good cause is not shown by respondent's apparent retention of counsel after the deadline for filing an appeal brief had run out.